

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

JOHN J. TAURO,

Plaintiff,

vs.

CAPITAL ONE FINANCIAL CORP.,

Defendants.

Civil Action No. 15-1136

Hon. Joy Flowers Conti
United States District Judge

Hon. Maureen P. Kelly
United States Magistrate Judge

ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT

Defendant Capital One Financial Corp. (“Capital One Financial”), by and through its undersigned counsel, files the within answer and affirmative defenses to Plaintiff’s amended complaint and states as follows:

ANSWER

Jurisdiction and Venue

1. The allegations of the first un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are admitted.

2. The allegations of the second un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

Parties

3. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of the third un-numbered paragraph and the allegations are therefore denied.

4. Capital One Financial denies the allegations of the fourth un-numbered paragraph.

5. The allegations of the fifth un-numbered paragraph are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, Capital One Financial admits the allegations.

6. The allegations of the sixth un-numbered paragraph are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, Capital One Financial admits the allegations.

Factual Allegations

1. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and the allegations are therefore denied.

2. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and the allegations are therefore denied.

3. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and the allegations are therefore denied.

4. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and the allegations are therefore denied.

5. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and the allegations are therefore denied.

6. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 and the allegations are therefore denied.

7. Capital One Financial denies that it provided any verification of information in connection with Plaintiff's account. Responding further, upon information and belief, any reporting and/or verification of Plaintiff's account would have been done by Capital One, N.A.

Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 and the allegations are therefore denied.

8. Capital One Financial denies that it is reporting any account of Plaintiff's as it is not a furnisher of information under the Fair Credit Reporting Act. Responding further, upon information and belief, any reporting of Plaintiff's account would have been done by Capital One, N.A. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 and the allegations are therefore denied.

9. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and the allegations are therefore denied.

10. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 and the allegations are therefore denied.

11. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 and the allegations are therefore denied.

12. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 and the allegations are therefore denied.

13. The allegations of this paragraph are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, Capital One Financial denies that it provided any verification of information in connection with Plaintiff's account. Responding further, upon information and belief, any reporting and/or verification of Plaintiff's account would have been done by Capital One, N.A. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and the allegations are therefore denied.

14. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 14 and the allegations are therefore denied..

15. The allegations of this paragraph are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, Capital One Financial admits only that the account was transferred to Capital One, N.A. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 15 and the allegations are therefore denied.

16. The allegations of this paragraph are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, Capital One Financial denies that the account was transferred to Capital One Bank (USA), N.A. Capital One Financial is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 16 and the allegations are therefore denied.

17. Capital One Financial admits only that the account was transferred to Capital One, N.A. Capital One Financial denies the remaining allegations of Paragraph 17.

COUNT I – FCRA

18. Capital One Financial incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

19. The allegations of Paragraph 19 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

COUNT II – BREACH OF DUTY TO CORRECT

20. Capital One Financial incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

21. The allegations of Paragraph 21 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

COUNT III – DUTY TO REPORT DEFAULT DATE

22. Capital One Financial incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

23. The allegations of Paragraph 23 are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, the allegations are denied as conclusions of law.

COUNT IV – DUTY TO REPORT DEFAULT DATE

24. Capital One Financial incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

25. The allegations of Paragraph 25 are directed to defendants other than Capital One Financial, therefore, no response is required. To the extent a response is required, the allegations are denied as conclusions of law.

26. Capital One denies any allegations contained in the WHEREFORE clause following Paragraph 25.

AFFIRMATIVE DEFENSES

27. Plaintiff has failed to state a plausible claim upon which relief may be granted.

28. Any damages suffered by Plaintiff were caused by third-parties over whom Capital One Financial has no control.

29. Defendant is not a furnisher of credit information under the Fair Credit Reporting Act, and therefore has no obligations under 15 U.S.C. § 1681s-2.

30. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, estoppel and laches.

WHEREFORE, Defendant Capital One Financial Corp. requests that the Court enter judgment in its favor and against Plaintiff, and award Defendant its costs of suit.

Dated: January 7, 2015

Respectfully submitted,

/s/ Laura A. Lange

Laura A. Lange

Pa. Id. No. 310733

McGuireWoods LLP

625 Liberty Avenue, 23rd Floor

Pittsburgh, Pennsylvania 15222

(412) 667-6000

(412) 667-6050 (fax)

llange@mcguirewoods.com

*Attorneys for Defendant Capital One
Financial Corp.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served this 7th day of January 2016 by the Court's CM/ECF Notification System upon the following:

John J. Tauro, pro se
2 Columbia Avenue #10
Pittsburgh, PA 15229
jontaur81@gmail.com

/s/ Laura Lange